App F IX-4

Previous References

~~nil~~

1929. (Mul) Previous

File No. 73-29

Serial Nos. 1-2

Later References

Mul. 188-31 (1+2)
Mul 73-37-Bh 41, 64, 81, 157
" 79-38-1s to 18 + 24 29
" 10-48 (158, 159)

General and Revenue Secretariat.

Serial Nos 2

Part B for July. 1930

SUBJECT

Attachment of salary of officials for recovery of arrears of mul taxes due from them

---

2) The Deputy Comr, Hassan Dist
L-8933 Dt 10/6/30
States that the salary of mul defaulters cannot be taken as movables and proceeded against under sec 83 of the mul Regn

GVV 26/7/30

Serial No.

1 Letter No. C112-29 of 25-9-29 from the Dy Comr Hassan Distt.

Forwards copies of the correspondence between the President of the Hassan District Council and himself relating to the attachment of the salary of the Officials of his Office for recovery of the arrears of land taxes due from them as per Distraint warrants issued by the former and solicits in the circumstances stated, orders as to whether the Dy Comr is competent to execute the warrants issued for the recovery of land taxes from the pay of the Officials ~~of his~~ working under him.

From the Dy Comr's letter it is seen that the arrears of land taxes to be recovered from the Officials of the District Office relate to the years from 1910-11 to 1928-29.

2) The period of limitation for the recovery of land taxes is 12 years and the arrears of taxes due for the years from 1910-11 to end of 1915-16 are barred by limitation and cannot therefore be recovered.

assessed in form a rate on buildings or lands

3) As regards the arrears due from 1916-17 to 1928-29, only the movable property of the defaulter can be distrained for the recovery of the arrears due from the Officials in question under Section 83(4) of the Land Revg Code and their pay cannot be attached as it is not a movable property.

e—Contn Sheet

WD 01684—GPB—30 000—20 4 29

Serial No.

4) As regards the question of addressing the warrants for execution, it is submitted that under Section 83 (2a), the warrants shall be addressed to the President of the Rural Council concerned or to the Mudaliar of the District if the property to be distrained is in a place which is not a municipality, the action of the President of the Rural Council of Hanam in having sent the warrants for execution to the Dy Comm to the Officials of the Area is not in order.

5) Regarding the one limitation for distraint, Sec 161B lays down that no distraint shall be made in respect of any sum due to the Rural Council after the expiry of three years from the date on which the such distraint might first have been made. From the Gist of the correspondence received from the Dy Comr, it is not clear whether simply action was taken to issue distraint warrants in respect of arrears of taxes relating

Present

b) The Legal Remembrancer may be consulted as to whether 'pay' may be attached for municipal dues and provident fund

15/8/29 (Sir Leo) 16/8.

7) The favour of opinion on above point is requested.

Law Dept. with enclosures. 17/8.

72 / 24 3 30

W D 01684—GPB—30,000—20 4 29

Serial No.

2/Land

8) Under section 83 of the Municipal Regulation municipal claims may be recovered "by distress and sale of the moveable property of the defaulter Distress is the act of taking moveable property out of the possession of a wrongdoer to compel the performance of an obligation.(Byrne's Law Dictionary page 310). It is different from attachment, which is a process of placing property under the control of a Court. There cannot be a distress of property which cannot be seized, such as a debt or a chose-in-action. The form of the distraint warrant prescibed in Scheaule VI of the Municipal Regulation shows that what is contemplated is only the seizure of "goods and chattles" and not debts or such other actionable claims. Consequently, the salary of an official cannot be proceeded against under section 83 of the Municipal Regulation.

Mahadevappa
22/10/30

Sym: Secy with Comps

9) Sma with regd para?

D
23-5-30

As above.
2nd Comptr

8934
26/5

28/5-
27/5

W D 01684—GPB—30,000—20 4 29

477

nil File No 73

Serial No.

Draft sub'd

nil
29/5

30/5

2. To the D.C. Hassan. L 89332 10 6

States that the Salary of 30 nil defaulters cannot be taken as moveables and proceeded against under Sec 83 of the nil Regn

Printed Copy placed before the Assembly

By

17/7

W D 01684—GPB—30 000—20 4 29

Jud: 73-29-1

Tel Address —Depcom Hassan

In reply please refer to
No C.112-29
Encl ...4...

EARLY.

OFFICE OF THE DEPUTY COMMISSIONER,
HASSAN DISTRICT,

Dated, Hassan, the ...25th... J.U.L.Y ..... *192* 9.

GEN DEPT SECTT
477
28 JULY 1929
L. S. & BRANCH.

From

S ABDUL WAJID, Esq., B A,
Deputy Commissioner, Hassan District.

To

B. NARAYANASWAMI IYENGAR, Esq., B.A., B.L.,
General Secretary to Government of Mysore,
B a n g a l o r e.

Sir,

I have the honour to forward herewith for favour of orders of Government, copies of the marginally noted correspondence between the President of the Hassan Town Municipal Council and myself in re. attachment of salary of officials for recovery of arrears of Municipal taxes due from them as per Distraint warrants issued by him.

1. Municipal President's No. 1945/13-6-29.
2. This office reply memo No. N.Dis.C2. 408-28 dated 21-6-1929.
3. Municipal President's No. 2052/28-29 dated 26-6-1929.
4. Municipal President's No.N C.20-29 dated 13-7-1929.

2. From the correspondence, it will be seen that the Municipal President forwarded to me 4 distraint warrants against the marginally noted four officials of my office and requested me to recover the amounts due from them by attaching their pay, and I returned the warrants ex unexecuted as I thought that I could not attach the salary of the officials under Article 57 of the Mysore Civil Account Code. He has now retransmitted the warrants to me for execution and from his writing, he seems to think that the warrants issued by him for recovery of unicipal Revenue have got the force of Civil Court warrants and might be similarly executed and salary attached by me.

1.	Mr.M.Ramanujiengar, Revenue Head Accountant	Rs.15/-
2.	H.Manjaiya, Clerk	Rs.105/8:
3.	M.Anantharamaiya, Clerk	Rs.42-12-0
4.	H.S.Suryanaranappa, Clerk.	Rs.11- 8-0

3. Under Section 83 (1) and (2) of the unicipal Regulation, the Municipal Council are competent to issue distraint

distraint warrants to distrain the moveables of d
is doubtful whether the pay of the defaulters could be
moveables and attached, though it is not included in the
and exemptions that could not be distrained as laid down
(4) of section 83 of the Municipal Regulation. Further
Section 85 (2 a) of the Municipal Regulation, the distraint
warrant ought to be addressed to an Officer of the Municipal
Council for execution when the property to be distrained is within
area of the Municipal Council issuing the same and section 16
of the said Regulation emphatically lays down that no distraint
shall be made in respect of sums due to the Municipal Council at
the expiration of a period of three years from the date on which
such distraint might have been made. In the present cases, the
warrants have been addressed to me and I don't think that the
Deputy Commissioner could be regarded as a Municipal Officer com
tent to execute the warrants, though he has the administrative co
trol over the Municipalities in the District. Above all the
arrears relate to very many previous years 1910-11 to 1928-1929
and no distraint could be made for the recovery of sums due for
more than three years under Section 161 A of the Municipal Regula
tion.

4. In these circumstances, I request the favour of clear
orders of Government on the several points referred to above at a
very early date.

I have the honour to be,

Sir,

Your most obedient servant,

For Deputy Commissioner,
(Absent from Head quarters)
Hassan District.

I.S.D.

7

Letter No. C.2222 20-29 dated 12th July 1929 from the President Tow
Municipal Council, Hassan, to the Deputy Commissioner, Hassan District.

==========

Re. attachment of salary.

In continuation of my letter No. 2052-28 dated the 26th June 1929, I have the honour to remind you of my request to retransmit the records so that I may refer the matter to Government for final orders.

After the reply was received from you, I have received a number of references from the ~~of~~ other officers to whom I had extended similar requests to quote the authority under which I was acting.

It was not an attempt to flaunt a status to which I had no right, but it was a bona-fide conviction that the law did clothe me with the right that actuated me to such attachment of salary.

I therefore request you to kindly expedite the retransmission of the records to me or submit the same to Government for definite orders in the matter.

'COPY'

S Subramaniasastri

For Deputy Commissioner,
Hassan District.

I.S.D.

Letter No. 2022/28-29 dated 26th June 1929 from the President, Town Municipal Council, Hassan, to the Deputy Commissioner, Hassan District.

Subject: Salary attachment warrant in favour of the officials of the District Office.

With reference to your memo No. N.Dis.C2.408-28 dated the 21st June 1929 on the above subject, I have the honour to state as follows:-

I have perused with care Article 57 of the Mysore Civil Account Code, and also other Sections and Government proceedings in this connection. I invoke your attention to the Government Proceedings in connection with the recovery of Income Tax dues and the Hospital dues wherein Government has specifically laid down that such dues can be recovered by attachment of the salary of the officials. As regards dues for purchase etc., of articles from Departments, the Code very appropriately directs the salary is not attachable because such transactions arise from contract and the intervention of a court of law is necessary before distraint warrants are issued Further, the Account code has laid down the mode of effecting warrants issued from courts of law. And even this has to be taken as illustrative and not as exclusive.

You are pleased to question the authority of the President of the Municipal Council to get the salary of the defaulting officials attached to recover the dues of the Municipality I concede without any demur that the Municipal Regulation warrants attachment of moveables of the defaulters as per Section 161 (b) which limits the authority only for a period of three years. Government, in its orderx No.L.7021-35/M.L 150-28-48 dated the 20th May 1929 has laid down in para 9 of the said order that pursuasion should be resorted to as far as possible and the really irrecoverable items alone should be written off. In the light of these two authorities, I may state at once that the warrant of the attachment of salary for the statutory period of three years and as a pursuasive request was issued for compulsory attachment of salary to pay up the balance also not under the cover of authority but by appealing to the parochial patriotism of the defaulters. To this extent, I may say that legitimate objection can be raised by the defaulters.

As regards the provision under which I seek to attach the salary of the officials, I may be permitted to submit as follows

(a) The Municipal Regulation empowers the President to issue the distraint warrants to attach the moveables of the defaulters.

(b) Salary earned is moveables. This is a proposition too elementary to be canvassed at length. If desired, I am prepared to quote chapter and verse in support of this.

(c) Municipal Manual Part II Page 191 Section 38 reads as follows:

" The moveable property that is not liable to attachment and sale under section 60 of the Code of Civil Procedure of 1911, shall not be liable to distraint".

In other words, the President is as competent as the Civil court to issue orders of distraint as is specifically laid down in this section under reference.

(d) Section 60 of the Civil Procedure Code, Sub Section (1) governs the procedure to effect the distraint warrant thus issued.

I believe these authorities are sure to convince you that before issuing the distraint warrants under reference, I had bestowed thought was armed with the said provisions. If yet, you feel doubt as regards legality, I shall try to convince you that the salary of the defaulting officials can be made liable for attachment.

Under these circumstances, I once more request you to kindly attach the salary of the officials with such concessions as you may think reasonable under the circumstances. In case you entertain doubts as to the technicalities and the authority, I shall be obliged for a retransmission of the records so that I may approach Government for a final ruling in the matter. I trust you concede to me that it is very much better to get an authoritative ruling from the supreme authority in such matters, rather than try to exercise such powers and be told that it is unwarranted.. The connected records accompany.

==========

'COPY'

For Deputy Commissioner,

Hassan District.

I.S.D.

[redacted] 13-6-29 from the President Town Municipal Co
[redacted] Deputy Commissioner Hassan District.

I have the honour to enclose the attachment of salary warrant with request that the same may be kindly given effect to while disbursing the salary of the officials mentioned in the said warrant, the amount recovered may be remitted to the Local Treasury and the fact kindly intimated to this office.

'COPY'

For Deputy Commissioner,

Hassan District.

[redacted] the Deputy Commis[redacted]
[redacted] Hassan District to the President, Town Municipal Council,

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Returned with compliments to the President, Hassan Town Municipa Council, There seems to be no provision under which these sums can be recovered from the pay of the officials. His attention is also invited to provisions of article 57 of the Mysore Civil Account Code in the matte

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'COPY'

Subramanyasastri

For Deputy Commissioner,

Hassan District.

Appendix F G—1 DP No 475

SUBJECT

1/2

9

Diary No of letter replied to 477

Section nil
File No Y 3 - 29
Serial No 2
No L 8933

General and Revenue Secretariat
( )
the 192

To The D. O. Hassan

Date of issue 10/6/29

Signed by Wilks Iyer

Sir,

with refce to your letter no C 112./29 D 28-7-29. stating that the President of the Hassan Town mc C. issued distraint warrants against certain officials of your office and ~~desired~~ permission that the amounts ~~should~~ may be recovered, by attaching their pay; ~~that under Sec 63 of the Mc Regn. Mc Councils are competent~~

List of enclosures

over

Copied by

Dressure

Examined by

~~to issue warrants to distrain the movable of defaulters and~~ soliciting instructions ~~orders of Govt, among other matters~~ as to whether the pay of the defaulters could be taken as moveables and attached, I am directed to state that the Salary of an official cannot be proceeded against under Sec 83 of the Rev Regn

I have re

Printed SD

Ys

W/30/5

SD for Gen Secy to Govt
30/5/30 MB

memo 18934-40. Dt 10/6/30

copy to other Dcs
for information,

BO

W/30/5 for Gen Secy
SD 30/5/30 MB

14

S. O.

Government of his highness the Maharaja of Mysore.

GENERAL AND REVENUE DEPARTMENTS.

G O No L 8933—Ml 73-29-2, dated 10th June 1930

Salary of Municipal Defaulters

States that the — cannot be taken as moveables and proceeded against under Section 83 of the Municipal Regulation

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ORDER No L 8933—ML. 73-29-2, DATED 10TH JUNE 1930

From

R RANGA RAO, ESQ, B A, B L,
General Secretary to the Government
of His Highness the Maharaja of Mysore,
Bangalor

To

S ABDUL WAJID, ESQ, B A,
Deputy Commissioner, Hassan District

SIR,

With reference to your letter No C 112-29, dated 25th July 1929, stating that the President of the Hassan Town Municipal Council issued distraint warrants against certain officials of your office and requested that the amounts may be recovered by attaching their pay and soliciting instructions as to whether the pay of the defaulters could be taken as moveables and attached, I am directed to state that the salary of an official cannot be proceeded against under Section 83 of the Municipal Regulation

I have the honor to be,
SIR,
Your Most Obedient Servant,
R RANGA RAO,
General Secretary to Government.

MEMO No L 8934-40, DATED 10TH JUNE 1930

Copy of the above is forwarded to the Deputy Commissioners of other Districts, for information

By Order,
R. RANGA RAO,
General Secretary to Government

Exd —P S R N

W D 3498—GPB—525 25 6 30